

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARVIN L. JONES,

Plaintiff,

04-CV-6083T

v.

**DECISION
and ORDER**

CONCENTRIX CORPORATION,

Defendant.

On November 14, 2002, plaintiff Marvin Jones ("Jones") brought an employment discrimination action against defendant Concentrix Corporation ("Concentrix"). The parties agreed to settle the dispute for \$7,500.00, less mandatory state and federal withholdings. The terms of the settlement, including the need to withhold federal and state taxes, were disclosed prior to finalizing the settlement. Pursuant to the settlement, Concentrix forwarded a check in the amount of \$4,047.12, which represented the \$7,500.00 settlement less state and federal taxes and withholdings. Thereafter, Concentrix forwarded a "W2" form to Jones reflecting the withholdings from the \$7,500.00 payment.

On March 31, 2003, this court dismissed Jones' discrimination case with prejudice on grounds that the parties had reached a settlement. That same day, Jones wrote to Magistrate Judge Jonathan W. Feldman objecting to the amount of the payment, claiming that he was owed \$7,500.00. Judge Feldman responded to the plaintiff in writing by noting that because the case was an

employment discrimination case, it was necessary to withhold all applicable taxes and other withholdings. Judge Feldman assured plaintiff that the settlement amount was correct, and in accordance with written disclosures made by the defendant prior to settlement advising plaintiff that certain amounts would be withheld.

Despite having agreed to the settlement, having accepted the settlement check, and having received assurance from Judge Feldman that the settlement amount was correct, plaintiff has filed the instant action seeking an additional \$3,452.88. Defendant moves for summary judgment on grounds that it has satisfied its obligations under the settlement agreement. Defendant also seeks costs. Plaintiff has not filed an opposition to defendant's motion.

Defendant's motion for summary judgment is granted. There is no basis in law or fact for the relief sought by the plaintiff. The plaintiff agreed to the settlement, was advised of the requirement to withhold taxes from the settlement, and was advised by a federal judge that the settlement amount was correct and in accordance with the settlement agreement. I deny without prejudice defendant's counterclaim for costs. Should plaintiff continue with frivolous litigation against the defendant, defendant may renew its application.

ALL OF THE ABOVE IS SO ORDERED.

S/ Michael A. Telesca

MICHAEL A. TELESKA
United States District Judge

Dated: Rochester, New York
June 14, 2005